

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of)
Illinois, for and on behalf of the People of the)
State of Illinois,)

Petitioner,)

vs.)

Wiggins Ferry Company, an Illinois Corporation;)
Union Pacific Railroad Company; Kansas City)
Southern Railway Company; and Unknown)
Owners,)

Respondents.)

Petition for approval of the taking or damaging of)
certain property owned by a common)
transportation carrier in St. Clair County, Illinois by)
exercising the right of eminent domain)
Parcel No. 8015121; Job No. R-98-015-00)

Docket No. T13-0025

PROPOSED STIPULATION

By the Commission:

PROCEDURAL HISTORY

On February 11, 2013, the Department of Transportation of the State of Illinois ("Petitioner" or "IDOT") filed the above referenced Petition with the Illinois Commerce Commission ("Commission") naming as Respondents, Wiggins Ferry Company ("Wiggins"), Kansas City Southern Railway Company ("KC"), Union Pacific Railroad Company ("UP"), and Unknown Owners (collectively "Respondents") to approve the taking of certain property in St. Clair County, Illinois, by exercising the power of eminent, such property designated herein as Parcel No. 8015121 (the "Subject Property").

Pursuant to notice as required by law and the rules and regulations of the Commission, a hearing on the Petition was held on March 11, 2013, before a duly authorized Administrative Law Judge of the Commission at the Commission's office in Springfield, Illinois. Appearances were entered on behalf of Petitioner and Respondents. An appearance was also entered by staff of the Railroad Safety Section

of the Commission's Transportation Division ("Staff"). At the conclusion of the hearing, the case was marked "Heard and Taken."

Subsequent to hearing the parties and Staff filed documents by which each waived a Proposed Order, and each agreed to a Stipulation supplementing evidence at hearing and agreeing to terms for an order, which are made a part hereof.

PETITIONER'S EVIDENCE

Cheryl Keplar testified for IDOT. She is the Condemnation Engineer for IDOT's District office in Collinsville. IDOT is engaged in a project to improve IL Route 3 in St. Clair County, Illinois. The proposed path of relocated IL Route 3 crosses over the Subject Property. IDOT introduced evidence that the Wiggins, KC, and UP hold ownership interests in the Subject Property.

Ms. Keplar testified that IDOT seeks to acquire the Subject Property from the Railroads for the purpose of constructing, operating, and maintaining relocated IL Route 3 in St. Clair County. Ms. Keplar testified the improvement is for a public use as a public highway and is in the interests of the public convenience and necessity.

IDOT was unable to reach agreement for this acquisition. The property sought by IDOT is legally described in Exhibit A, and depicted in Exhibit B. There are no operating tracks on the property sought by IDOT. IDOT's acquisition will not substantially interfere with any railroad operations.

WIGGINS, UP and KC POSITIONS

Wiggins, UP, and KC do not object to a Commission Order granting approval for IDOT to exercise its power of Eminent Domain to acquire fee simple absolute title, a permanent easement title, and temporary construction easements to the Subject Property, as requested in the Petition filed herein, for the construction of the improvements proposed herein.

STAFF POSITION

Staff has no objection to the entry of an Order granting approval for IDOT to exercise its power of Eminent Domain to acquire the property interests requested.

PROPOSED ORDER

The Parties and Staff waived issuance of a Proposed Order.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that it is fair and reasonable to approve the Illinois Department of Transportation's request to proceed to exercise its power of

Eminent Domain to acquire the property interests requested.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the Parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks approval to take the following property:

a fee simple absolute interest to Parcel No. 805121 legally described in Exhibit A to construct relocated IL Route 3.
- (4) Petitioner presented evidence as to the ownership of the property and the efforts made to obtain the Subject Property by negotiations;
- (5) the evidence shows that construction of the improvement project can be carried out without substantial interference with any rail carrier operations;
- (6) the Petitioner should be granted authority to exercise its power of eminent domain to acquire the Subject Property set forth in Finding (3) hereinabove.

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain to acquire the Subject Property set forth in Finding (3) hereinabove.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 3d day of April, 2013.

END OF STIPULATION